

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SUN MICROSYSTEMS INC.,

Plaintiff,

No. C 06-1665 PJH

v.

**ORDER RE MOTION TO
EXTEND FACT DISCOVERY
DEADLINE**

HYNIX SEMICONDUCTOR INC., et al.,

Defendants.

This Document Also Relates to:

Unisys Corp. v. Hynix et al., C 06-2915 PJH

All American Semiconductor v. Hynix et al., C 07-1200 PJH

Edge Electronics v. Hynix et al., C 07-1207 PJH

Jaco Electronics v. Hynix et al., C 07-1212 PJH

DRAM Claims Liquidation Trust v. Hynix et al., C 07-1381 PJH

Before the court is plaintiffs' motion to extend the fact discovery deadline, brought as a motion to change time pursuant to Civil Local Rule 6-3. Plaintiffs seek to extend the current November 16, 2007 fact discovery deadline by ninety days, with a corresponding ninety day extension of time for all other pretrial dates set forth in the June 25, 2007 pretrial schedule.

Preliminarily, the court notes that a motion to change time pursuant to Civil Local Rule 6-3 is not the proper procedural vehicle through which to obtain modification of a pretrial scheduling order. As defendants point out in their opposition to plaintiffs' motion, modifications to existing pretrial schedules are governed by Federal Rule of Civil Procedure 16 and Civil Local Rule 16-2(d), which requires that any and all motions seeking relief from pretrial schedules be filed in compliance with Civil Local Rule 7. This does not necessarily

1 require a motion filed pursuant to Local Rule 7-2; an administrative motion brought
2 pursuant to Local Rule 7-11 is acceptable. In view of this, and the fact that defendants
3 have had the opportunity to submit an opposition to plaintiffs' motion, the court construes
4 plaintiffs' motion as a properly filed administrative motion.

5 With respect to the relief plaintiffs seek, defendants are correct that plaintiffs are
6 required to show good cause for modification of the fact discovery deadline, based on their
7 diligence. Plaintiffs have made no showing of good cause, however, nor have they
8 demonstrated that, since entry of the current pretrial schedule merely three months ago,
9 they have proceeded diligently in pursuing discovery but will be unable to meet the fact
10 discovery deadline despite such efforts. Plaintiffs have also failed to demonstrate any
11 basis for the wholesale continuance of all remaining pretrial dates, as they propose.

12 Nonetheless, and notwithstanding the lack of any good cause showing, the court
13 hereby grants plaintiffs a thirty day extension of the fact discovery deadline, to **December**
14 **17, 2007**. All remaining pretrial dates remain unchanged.

15
16 **IT IS SO ORDERED.**

17 Dated: September 24, 2007



PHYLLIS J. HAMILTON
United States District Judge